

08CV6544

JUDGE GETTLEMAN

MAGISTRATE JUDGE BROWN

EDA

IN THE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DETALIAN BROWN,)
Plaintiff,)
)
v.) No.
)
)
OFFICER R. CASTANEDA, STAR #13253,)
OFFICER R.J. LOBIANCO, STAR #16764,) Jury Demand
OFFICER MALKOWSKI, STAR #9886,)
OFFICER KOPACZ, STAR #19705, and)
THE CITY OF CHICAGO,)
Defendants.)

COMPLAINT

Plaintiff, through his attorneys Thomas Peters and Kevin Peters, states:

COUNT I - FALSE ARREST

JURISDICTION AND VENUE

1. This Court has jurisdiction based on 28 U.S.C. §§1331 and 1333(a) because the case raises federal constitutional issues.
2. The Court has supplementary jurisdiction over substantially related state claims based on 28 U.S.C. 1337(a).
3. This is an appropriate venue because all of the alleged acts occurred within the Northern District of Illinois and all of the parties reside within the Northern District of

Illinois.

4. This action is brought pursuant to 42 U.S.C. §1983 for violations of Plaintiff's constitutional rights under the Fourth Amendment as incorporated and applied to state governments through the Fourteenth Amendment to the United States Constitution.

PARTIES

5. Plaintiff is a citizen of the United States and resident of Chicago, Illinois.

6. Defendants, Castaneda, Lobianco, Malkowski, and Kopacz, are Chicago police officers who were on duty and acting under color of state law at all times relevant to this Complaint.

7. The City of Chicago is a municipality organized under the laws of the State of Illinois and it is the employer of Defendants Castaneda, Lobianco, Malkowski, and Kopacz.

THE FOURTH AMENDMENT VIOLATION

8. On November 15, 2006, Plaintiff was driving a vehicle on West Roosevelt Road in Chicago, Illinois.

9. The Defendant officers claim to have witnessed the Plaintiff using a cell phone while he was driving.

10. Defendants Castaneda, Lobianco, Malkowski, and Kopacz, pulled Plaintiff's vehicle over at about 3258 W. Roosevelt Road, Chicago, Illinois, at about 2325 hours.

11. Defendants Castaneda and Lobianco approached Plaintiff's vehicle and asked

Plaintiff for his license and proof of insurance.

12. Plaintiff produced a valid driver's license and proof of insurance.
13. Defendants then ordered Plaintiff and his front seat passenger out of the vehicle.
14. Defendants then illegally searched the vehicle and found a handgun from the center console area.
15. Plaintiff was not the registered owner of the vehicle, and he did not knowingly possess a handgun on November 15, 2006.
16. Based on the police reports of the named Defendant officers, Plaintiff was charged under case number 06 CR 27132.
17. Ultimately all charges in case number 06 CR 27132 were dismissed.
18. As a direct and proximate result of the unconstitutional conduct of the Defendant officers, Plaintiff suffered actual harm.

Wherefore, Plaintiff prays this Honorable Court award him actual and punitive damages as well as costs and reasonable attorneys fees against the Defendant officers.

COUNT II- STATE MALICIOUS PROSECUTION

- 1-18. Plaintiff re-alleges Paragraphs 1-18 of Counts 1 as paragraphs 1-18 of Count II.
19. The Defendant officers wrote false and misleading police reports regarding the arrest of the Plaintiff, including but not limited to stating that he was driving a vehicle

while his driver's license was suspended as well as unlawful possession of a firearm.

20. The Defendant officers knew their false police reports would be relied on by superior officers and Assistant State's Attorneys to determine charges against the Plaintiff.

21. Based on the Defendant officers' false reports, Plaintiff was charged under case number 06 CR 27132.

22. On September 19, 2008, in case number 06 CR 27132, the State's Attorney's Office dismissed all charges relative to the Plaintiff.

23. Plaintiff is innocent of those charges.

WHEREFORE, Plaintiff prays this court will award him actual and punitive damages as well as costs and reasonable attorney's fees against the Defendant officers' for his false arrest.

COUNT III - STATUTORY INDEMNIFICATION

1-23. Plaintiff re-allege paragraphs 1-23 of Counts I and II as paragraphs 1-23 of Count III.

24. At all relevant times 745 ILCS 10/9-102 was in full force and effect.

25. The Defendant officers were acting under color of state law and as employees of the City of Chicago.

WHEREFORE, Plaintiff prays the Court will award him actual damages and costs against the City of Chicago.

Respectfully Submitted,

s/ Thomas Peters

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